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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,934	08/27/2003	Alan M Wagner	Lear04380	1933
23688	7590	03/23/2007	EXAMINER	
Bruce E. Harang PO BOX 872735 VANCOUVER, WA 98687-2735			JOHNSON, MATTHEW A	
			ART UNIT	PAPER NUMBER
			3682	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/604,934	WAGNER ET AL.	
	Examiner	Art Unit	
	Matthew Johnson	3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-9 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-9,11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Prosecution Application

The request filed on 3/13/2007 for a Continued Examination (RCE) is accepted and a RCE has been established. An action on the RCE follows.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 1 recites the limitation "said vertical drive nut device" in the line of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,5,6,9,11 are rejected under 35 U.S.C. 102(b) as being anticipated by Murphy et al. (USP-4,500,136).

Re clm 1,5: Murphy discloses a drive nut device (Figure 6) comprising a one-piece drive nut body (104,106) having a predetermined shape and further having a first end (near 112) and a second end (near 98), said first end having a bore for mounting to

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a seat movement member (112; C6 L20-28), and said second end having a drive nut (104) formed as an integral part thereof, said drive nut having a threaded bore (C6 L10-12) passing through the longitudinal axis of said drive nut, and a longitudinal length predetermined to prevent undesired non-longitudinal axis movement of said drive nut device.

Re clms 6,11: Murphy discloses a drive nut body (104,106) having a generally L-shape (Figure 6).

Re clm 9: Murphy discloses a drive nut (104) having a longitudinal axis that is substantially at a right angle (Figure 6) to said bore for mounting to a seat vertical movement member (112).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2,7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy et al. (USP-4,500,136) in view of applicant's admitted prior art [0031].

Murphy discloses all of the claimed subject matter as described above.

Murphy does not disclose a drive nut device comprised of sheet steel.

The applicant's admitted prior art [0031] discloses that the use of sheet steel was well known at the time of the invention for the manufacture of various parts such as drive nuts for seat adjusters.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ a drive nut device comprised of sheet steel, as taught by applicant's admitted prior art [0031], in the device of Murphy for the purpose of decreasing weight, lower cost and ease of manufacture.

7. Claims 2,3,7,8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy et al. (USP-4,500,136) in view of Reynolds (USP-5139380).

Murphy discloses all of the claimed subject matter as described above.

Murphy does not disclose a drive nut device comprised of sheet steel.

Reynolds teaches a drive nut (10) comprised of sheet steel having a thickness of from about 0.5mm to about 4.0mm (C3 L61-63) for the purpose of decreasing weight, lower cost and ease of manufacture.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ a drive nut made of sheet steel, as taught by Reynolds, in the device of Murphy for the purpose of decreasing weight, lower cost and ease of manufacture.

8. Claims 2,7, are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy et al. (USP-4,500,136) in view of Distasio et al. (USPGPub-20040047709).

Murphy discloses all of the claimed subject matter as described above.

Murphy does not disclose a drive nut device comprised of sheet steel.

Distasio teaches a drive nut (Figure 35j) comprised of sheet steel [0266] for the purpose of decreasing weight, lower cost and ease of manufacture.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ a drive nut made of sheet steel, as taught by Distasio, in the device of Murphy for the purpose of decreasing weight, lower cost and ease of manufacture.

Response to Arguments

9. Applicant's arguments filed on 3/13/2007 have been fully considered but they are not persuasive.

The applicant argues that Murphy does not disclose a drive nut having a longitudinal length predetermined to prevent undesired non-longitudinal axis movement of the drive nut device.

In response, the examiner disagrees with the applicant's arguments. Predetermination of the dimensions of a part is inherent in the design process. In order for the drive nut of Murphy to function, the threads of the drive nut must remain in contact with the threads of the shaft. Any form of undesired non-longitudinal axis movement of the drive nut device, would result in disengagement of the drive nut threads with the threads of the shaft. Therefore, Murphy inherently discloses a drive nut having a longitudinal length predetermined to prevent undesired non-longitudinal axis movement of the drive nut device.

The applicant argues that Murphy does not disclose a one piece drive nut body having a first end with a bore for mounting to a seat movement member and a second end having a drive nut formed as an integral part.

In response, the examiner disagrees with the applicant's arguments. As described in the Office Action, Murphy discloses (see Figure 6) a one piece drive nut body (104 including a forwardly extending portion 106, C6 L12-13) having a first end (near 112) and a second end (near 98), said first end having a bore for mounting to a seat movement member (112; C6 L20-28), and said second end having a drive nut (104) formed as an integral part thereof. In column 6 lines 12-13, Murphy describes the drive nut (104) as **including** a forwardly extending portion (106). Collectively, these two features form the one piece drive nut body, as clearly shown in Figure 6. Additionally, Merriam Webster's Collegiate Dictionary Tenth Edition provides the following definitions of the term "integral": 1a) essential to completeness; c) formed as a unit with another part. Murphy further discloses (Figure 6) the drive nut body (104) having a first end (near 112) having a bore for mounting a seat movement member (112; C6 L20-28), and a second end (near 98) having a drive nut (104) having a threaded bore (C6 L10-12).

The applicant further argues that there is nothing in the Murphy reference teaching the use of sheet metal to form a drive nut. Additionally, the applicant argues that the applicant's disclosure in paragraph [0031] is not an admission that drive nut devices may be made of sheet steel.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

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combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves **or in the knowledge generally available to one of ordinary skill in the art.** See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner notes that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ a drive nut made of sheet steel for the purpose of decreasing weight, lower cost and ease of manufacture. In regards to the applicant's disclosure in paragraph [0031], the examiner disagrees. Paragraph [0031] clearly states, "The various parts of such seat adjusters are well known as well as suitable materials to make such parts such as, for example, sheet steel, and plastic."

Additionally, the applicant argues improper hindsight regarding the teachings of sheet steel.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew Johnson whose telephone number is 571-272-6917. The examiner can normally be reached on Monday - Friday 8:30a.m. - 5:00p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJ

MJ 3/22/2007


RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER